

IN THE UNITED STATES DISTRICT COURT
FOR THE SOUTHERN DISTRICT OF TEXAS
HOUSTON DIVISION

UNITED STATES OF AMERICA

VS.

August 28, 2023
Houston, Texas
1:09 p.m.

DERRICK BUTLER,
TREVON MAXWELL,
HERMAN MITCHELL,
JEREMY JENKINS

4:23-cr-0358-1
4:23-cr-0358-2
4:23-cr-0358-4
4:23-cr-0358-6

DETENTION HEARING

BEFORE THE HONORABLE ANDREW M. EDISON

UNITED STATES MAGISTRATE JUDGE

APPEARANCES:

For the United States

Ralph Paradiso, AUSA
U. S. Attorney's Office
1000 Louisiana
Suite 2300
Houston, Texas 77002

For Defendant Butler

Joseph Francis Vinas
Vinas and Graham, PLLC
1210 W. Clay Street
Suite 12
Houston, Texas 77019

For Defendant Maxwell

R. Trent Gaither
Law Office of
Trent Gaither
6602 Westview Drive
Houston, Texas 77055

Proceedings from official electronic sound recording;
transcript produced by court approved transcriber.

DIGITAL SCROLL TRANSCRIPTION

281.382.9862

1 For Defendant Mitchell

David B. Adler
David Adler, Attorney
1415 North Loop West
Suite 905
Houston, Texas 77008

4 For Defendant Jenkins

Raymundo Vazquez
Law Office of
Ray Vasquez
405 Main Street
Suite 751
Houston, Texas 77002

7
8 Case Manager

Ruben Castro

8
9 Electronic Recording Operator

Brandis Isom

10

11

12

13

14

15

16

17

18

19

20

21

22

23

24

25

INDEX

	<u>Page</u>
<u>WITNESS FOR THE GOVERNMENT:</u>	
Proffer by Mr. Paradiso	11
Detective Adam Bock	18
Cross Examination by Mr. Adler	18
Cross Examination by Mr. Vazquez	30
Cross Examination by Mr. Vinas	35
[Re]direct Examination by Mr. Paradiso	41
Recross Examination by Mr. Vazquez	46
Recross Examination by Mr. Vinas	48
Proffer by Mr. Adler	49
Proffer by Mr. Vazquez	50
Proffer by Mr. Vinas	52
<u>EXHIBITS:</u>	
Exhibit 1 Jenkins Pretrial Report	9
Exhibit 2 Maxwell Pretrial Report	9
Exhibit 3 Mitchell Pretrial Report	9
Exhibit 4 Butler Pretrial Report	10
<u>ARGUMENT:</u>	
By Mr. Paradiso	55
By Mr. Vazquez	57
By Mr. Vinas	60
By Mr. Adler	71
COURT RULING	76

1 THE COURT: United States versus Derrick DeWayne
2 Butler, Travon Maxwell, Herman Mitchell and Jeremy James
3 Jenkins.

4 Could I get introductions, starting with the
5 Government?

6 MR. PARADISO: Yes, Your Honor. Ralph Paradiso for
7 the United States.

8 THE COURT: Good to see you, sir.

9 On behalf of the Defendants?

10 Let's start with Mr. Butler.

11 MR. VINAS: Joe Vinas for Mr. Butler.

12 Good afternoon, Your Honor.

13 THE COURT: Good to see you.

14 Mr. Maxwell?

15 MR. GAITHER: Trent Gaither for Mr. Maxwell, Your
16 Honor.

17 THE COURT: Hello, Mr. Gaither.

18 Mr. Mitchell?

19 MR. ADLER: David Adler for Mr. Mitchell, Your Honor.

20 THE COURT: Hello, Mr. Adler.

21 And Mr. Jenkins?

22 MR. VAZQUEZ: Ray Vazquez on behalf of Mr. Jenkins,
23 Judge.

24 THE COURT: Hello, Mr. Vazquez.

25 And hello, Mr. Butler, Mr. Maxwell, Mr. Mitchell

1 and Mr. Jenkins.

2 DEFENDANT BUTLER: How you doing?

3 DEFENDANT MAXWELL: How you doing?

4 DEFENDANT MITCHELL: How you doing?

5 DEFENDANT JENKINS: How you doing, Judge?

6 THE COURT: We're here today for - a couple of
7 things - first, we have Arraignment - and by the way, before I
8 go any further, since my understanding this is the first
9 appearance of both the Government and Defense counsel in the
10 case, let me follow the Federal Rules of Criminal Procedure,
11 Rule 5(f), which requires me to inform counsel for the
12 Government of your obligation to comply with the Disclosure
13 responsibilities set forth in the United States Supreme
14 Court's landmark case of Brady v. Maryland and its progeny.

15 Failure to do so, as you're well aware, may
16 result in sanctions, contempt proceedings, exclusion of
17 evidence, dismissal of charges and adverse jury instructions.

18 I'll enter a formal written order that says the
19 exact same thing, because the Rules require me to do so, and
20 I'll do that later today.

21 The next thing we need to address is an
22 Arraignment. And let me see if I can get the agreement of -
23 well, let me find out from all counsel, at least with respect
24 to the Arraignment part - have you had an opportunity to
25 review the charges with your clients? Are they prepared to

1 enter a not guilty plea at this time? And are you willing to
2 waive a formal reading of the charges?

3 Let me start with - let me just name the
4 Defendant, and if the lawyers could chime in -

5 With respect to Mr. Butler?

6 MR. VINAS: We reviewed these - got a copy of the
7 Indictment. We will waive formal reading, and he is prepared
8 to enter a not guilty plea, Your Honor.

9 THE COURT: Thank you.

10 Mr. Maxwell?

11 MR. GAITHER: Yes, to all of the above, Judge.

12 THE COURT: Mr. Mitchell?

13 MR. ADLER: Yes, Your Honor, for all these things.

14 THE COURT: And, Mr. Jenkins?

15 MR. VAZQUEZ: Same, Your Honor, we would agree to
16 waive it.

17 THE COURT: Okay.

18 And now, let me just ask each of you,
19 gentlemen - and I'm required to ask you - so, let me start
20 with Mr. Butler.

21 Have you had an opportunity to review the
22 charges set forth in the Indictment with your attorney, and
23 are you prepared to enter a not guilty plea at this time, sir?

24 DEFENDANT BUTLER: Yes, sir.

25 THE COURT: Okay.

1 Mr. Maxwell, let me ask you.

2 Have you had an opportunity to review the
3 charges with your attorney set forth in the Indictment, and
4 are you prepared to enter a not guilty plea at this time?

5 DEFENDANT MAXWELL: Yes, sir.

6 THE COURT: Mr. Mitchell, same questions for you.

7 Have you had an opportunity to review the
8 charges with your attorney, Mr. Adler, and are you prepared to
9 enter a not guilty plea?

10 DEFENDANT MITCHELL: Yes, sir.

11 THE COURT: And, Mr. Jenkins, have you had an
12 opportunity to review the charges with Mr. Vazquez, and are
13 you prepared to enter a not guilty plea at this time?

14 DEFENDANT JENKINS: Yes, sir.

15 THE COURT: Okay.

16 A not guilty plea is entered on behalf of all of
17 you in connection with this case.

18 This case has been assigned to Judge
19 Lee Rosenthal. I'm going to enter a Scheduling Order that
20 will govern the proceedings in this case. This case will be
21 set for a trial on October 30th, at 9:00 a.m. There will be a
22 Pretrial Conference on October 23rd, at 8:45 a.m.; October 16th
23 will be responses to motions. Motions will be filed on
24 October 2nd.

25 Let me ask the Government.

1 How long do you expect the trial of this case to
2 last?

3 MR. PARADISO: Your Honor, the Government would
4 estimate about a week trial on the Government's side.

5 THE COURT: Okay.

6 So, obviously, all proceedings after today will
7 be before Judge Rosenthal, and if anyone wants, as you're well
8 aware, to change that schedule talk to her.

9 Okay. The next issue is the Detention Hearing.

10 Is the Government prepared to proceed?

11 MR. PARADISO: Yes, Your Honor.

12 THE COURT: With respect to each Defendant, are you
13 prepared to proceed, or do you want a continuance to the
14 Detention Hearing.

15 Let me start with respect to Mr. Butler.

16 MR. VINAS: We're ready, Your Honor.

17 THE COURT: Okay.

18 Mr. Maxwell?

19 MR. GAITHER: We are not ready, Your Honor. We would
20 ask for a continuance.

21 THE COURT: Okay.

22 Let me address you in one second, Mr. Gaither.

23 Mr. Mitchell?

24 MR. ADLER: We are ready to proceed, Your Honor.

25 THE COURT: And, Mr. Jenkins?

1 MR. VAZQUEZ: Ready to proceed, Judge.

2 THE COURT: Okay.

3 Mr. Gaither, my view is, I'm always going to
4 give a defendant additional time if they need to prepare for a
5 Detention Hearing.

6 So, why don't we do this? Let's - here's my
7 thought process.

8 We're going to have a proffer from the
9 Government, if we could. If you would listen to the proffer,
10 we'll sort of knock that out; we'll get that out of the way.
11 And then, once that proffer is offered by the Government, then
12 your portion of the Detention Hearing we're going to
13 continue - at what time did I say - 1:30?

14 1:30 on Wednesday.

15 MR. ADLER: That's 1:30 on Wednesday?

16 THE COURT: 1:30 on Wednesday, and when we resume the
17 Detention Hearing with respect to Mr. Maxwell, you'll be able
18 to cross examine the - the Agent - in other words, the proffer
19 will have already been given. You'll hear it now, but then,
20 you'll go in and be able to cross examine the Agent.

21 And I'm going to offer each part- -- each
22 Defendant's Pretrial Report. In fact, I'm going to do that
23 right now, just so the record -

24 Mr. Jenkins' Pretrial Report is going to be
25 Exhibit 1; Mr. Maxwell's Exhibit 2; Mr. Mitchell's No. 3 and

1 Mr. Butler's Exhibit 4 to this - to this hearing.

2 Does that work, Mr. Gaither?

3 MR. GAITHER: Yes, that's - that is just wonderful,
4 Judge.

5 THE COURT: Okay.

6 MR. GAITHER: Appreciate it.

7 THE COURT: Thank you very much.

8 Okay. So, who is the witness on behalf of the
9 Government?

10 MR. PARADISO: Yes, Your Honor, the Government will
11 offer Federal Bureau of Investigation Taskforce Officer
12 Adam Bock for Cross Examination.

13 THE COURT: Okay.

14 And if - obviously, as you know, Mr. Bock, if
15 you will listen closely to the proffer that's about to be
16 given. Once the proffer is done, I'll swear you in, ask if
17 you adopt the proffer as your testimony under penalty of
18 perjury. If there are any corrections, additions,
19 subtractions, please make them. I want to make sure your
20 proffer is a hundred percent true, correct and accurate, and
21 then, I'll turn it over to cross examination from the Defense
22 lawyers.

23 AGENT BOCK: Yes, sir.

24 THE COURT: With that said, I'll let the Government
25 proceed.

1 MR. PARADISO: Thank you, Your Honor.

2 Your Honor, the FBI was conducting a
3 investigation into a criminal street gang known as the Early
4 Boys Scoot-up Gang (phonetic), and during their investigation,
5 they became aware that Defendant Maxwell was involved in drug
6 rips and robberies of rival gang members.

7 On or about July 24th, 2023, the FBI made
8 contact with the Defendant Maxwell through a Confidential
9 Human Source. That Confidential Human Source informed Maxwell
10 that she had inside information into a large shipment of
11 cocaine coming to Houston that was being delivered by a
12 Mexican drug trafficking organization.

13 She stated that she had an inside source that
14 would let them know how many persons would be at that
15 location, the weapons they would have and the amount of
16 cocaine that would be available.

17 Later on the Source told Maxwell that there
18 would be approximately a 122 kilograms of cocaine at this
19 undisclosed location at that time. Maxwell provided his phone
20 number to the CHS, and who can later contact him once she knew
21 where the location would be.

22 On or about July 26, 2023, Confidential Human
23 Source contacted Maxwell and told him that there would be
24 about three vehicles bringing cocaine to this delivery
25 location here in Houston. At that time it was determined that

1 the crew would meet at a Residence Inn in Houston, Texas.

2 Maxwell indicated that his crew would steal the
3 cocaine, and they would retain a 100 kilograms of the cocaine,
4 but they would give CH- -- the CHS 22 kilograms.

5 Law enforcement placed video and audio
6 surveillance in the meeting room at the Residence Inn. And
7 then, on or about July 27, 2023, Defendants Maxwell, a
8 fugitive Defendant and Butler and another unidentified
9 individual arrived at the hotel.

10 They went into the room, and in that room they
11 discuss the upcoming robbery of the Mexican drug cartel, and
12 at that point the CHS contacted another CHS who is posing as
13 the inside source in the Mexican drug cartel.

14 The inside - the inside source texted back to
15 the group and telling them where the 122 kilograms of cocaine
16 was located, which was going to be in an abandoned house and
17 in an abandoned golf course, located at 16019 Clay Road,
18 Houston, Texas, which is located in the Southern District of
19 Texas.

20 They were informed that the gate was going to be
21 unlocked, and at that time they were going to still be five
22 persons at that location. They were told the drugs were going
23 to be under a gray tarp in the building and advised that
24 people at the target location were about to leave. Butler
25 asked if the location had burglar alarms or cameras, and he

1 was told it did not. He went on to say that he would kill the
2 N word's ass if he has to do so.

3 The group was provided photographs and the
4 address of the location.

5 The group then discussed how to conduct the
6 operation to steal the cocaine and whether they should do
7 reconnaissance of the target location before trying to rob it.
8 Butler stated that they will take the license plates off their
9 cars and use duct tape to put paper in its place.

10 Butler says that the people hitting the location
11 will smoke them and do what has to be done. They discussed
12 the robbery, and that the other participants would be arriving
13 soon.

14 On any audio recording in the hotel room, an
15 unidentified person can be heard saying, "They have guns and
16 masks, and are going to make money."

17 Butler tells the other three individuals that he
18 came with to go to the store to buy duct tape, which they do.
19 Surveillance video taken from that convenient store shows the
20 individuals shoplifting the duct tape.

21 In the hotel room, Butler is still there with
22 the CHS, and he asks, if she knew anything about guns and
23 showed her a handgun, in which Butler said is a hellcat
24 9 millimeter. He said that the gun never failed him, and he
25 takes it on a million missions. He further stated this is my

1 shit, and I can rob a lot of N words with this bitch. At that
2 time he placed the handgun into a sling that he was wearing at
3 that time.

4 Shortly thereafter, the other three individuals
5 returned from the store. Only one unidentified individual
6 went in the room, and Maxwell and a fugitive remained outside.
7 At that time Butler asked him, the CHS, to provide him the
8 information that they received from the resou- -- the inside
9 source on the target location, and she did so.

10 Residence Inn hotel surveillance showed one of
11 the individuals attempting to remove the license plate from a
12 red Camry and replace it with duct tape. However, it appears
13 someone within that car tells him not to do it, and he takes
14 the paper off.

15 Prior to depart- -- departing the hotel, law
16 enforcement observed various individuals changing their
17 clothes or adding clothing, such as hoodies, to disguise their
18 appearance for wanting to make entry into the target location.
19 They then loaded into their respective vehicles to depart.

20 As they were doing this, HPD Gang Officers, who
21 are familiar with the subjects are able to recognize and
22 identify them by who's getting into what vehicle - into and
23 out of the vehicles.

24 At approximately 11:40 a.m., the targets load
25 into four vehicles to head to the target location, which is

1 the pump house at the abandoned golf course to conduct the
2 drug robbery. Male 1 got into a Hyundai Sonata, and he was
3 the only occupant.

4 Maxwell, who was the driver; a fugitive, who was
5 the front passenger; Mitchell, who was the rear passenger and
6 Male 2 got into a rear driver side - who got into the rear
7 driver side entered a red Toyota Camry. Draper and Jenkins
8 entered a gray Dodge Charger.

9 However, prior to departing the hotel, Jenkins
10 got out of the - the Mitsubishi Outlander with an- sorry - got
11 out of the Mitsubi- -- got out of the Dodge Charger and got
12 into the Mitsubishi Outlander with Butler. At that point, all
13 four vehicles depart the Residence Inn heading towards the
14 golf course.

15 Butler's Outlander was in the lead followed by
16 Draper's Charger, Maxwell's Camry and Male 1's Hyundai.
17 Aerial surveillance video recorded the convoy as it headed
18 towards the Res- -- from the Residence Inn to the target
19 location.

20 When they arrived at the target location,
21 Draper's Charger pulled into a 7-Eleven across the street, and
22 he reversed into a parking lot so that that allowed him to
23 have a view of the target location.

24 Butler's Outlander and Maxwell's Camry drove
25 pass the target location, and Male 1 stopped at the gate. He

1 got out of the vehicle and opened it. While he was working to
2 open it, Butler and Maxwell's vehicles drove back and forth,
3 up and down the road waiting for entry.

4 Once Male 1 opened the door, he got into his
5 vehicle and pulled the vehicle inside the front of the gate.
6 Once it opened, Butler's Outlander pulled next to Draper's
7 Charger at the 7-Eleven.

8 Jenkins got out of the Outlander and got into
9 the Charger. Maxwell's Camry drove through the gate, towards
10 the pump house, and he stops short of the pump house.

11 The four individuals in the vehicle got out.
12 They were wearing masks, gloves and other clothing to disguise
13 their appearance. However, as stated before, law enforcement
14 was able to identify them based on the clothing that they had
15 on and what they were wearing at the Residence Inn.

16 Maxwell, the Fugitive, Mitchell and Male 2 began
17 to make entry into the building. Video surveillance in the
18 building showed the individuals entered the building armed and
19 they began to search through the cocaine. They advanced on
20 the pump house and kicked in the door. When they are entered,
21 they possessed long guns and handguns with extended magazines.
22 They conduct a sweep of the location and a tactical search.
23 They searched under the gray tarp where they thought the
24 cocaine was and did not find any.

25 At about the time the four persons were entering

1 the target location, Draper's Charge- -- left the sear- --
2 Draper's Charger with Jenkins in it left the 7-Eleven and
3 entered the par- -- property. However, the Charger stopped
4 before reaching the pump house.

5 Shortly thereafter, the Camry and Charger
6 leave the target location at a high rate of speed. All four
7 vehicles left the golf course going north on Highway 6. They
8 then did what was known as heat runs, in other words, vehicles
9 move in to detect law enforcement surveillance in various
10 neighborhoods before turning back and heading to - back to the
11 Southeast Houston. They did not return to the Residence Inn
12 as previously discussed.

13 HPD officers were to later stop Draper's vehicle
14 for a traffic stop. He was - Draper was removed from the
15 vehicle, and he was patted down. Jenkins was not removed from
16 the vehicle. The vehicle was not searched, and the two were
17 allowed to depart.

18 That's all, Your Honor.

19 THE COURT: Okay.

20 Thank you very much.

21 Agent Bock, if you would take the witness stand,
22 please.

23 If you would, raise your right hand, sir.

24 (Witness sworn by Court.)

25 AGENT BOCK: I do swear.

1 THE COURT: Please be seated.

2 And let me ask you, to start off, you heard the
3 proffer that was made by counsel. Do you adopt that proffer
4 as your testimony here today under penalty of perjury, sir?

5 THE WITNESS: I do, Judge.

6 THE COURT: Okay.

7 Thank you very much.

8 I'll turn it over to the Defendants, in no
9 particular order.

10 MR. ADLER: Judge, I'm going to start with this
11 witness.

12 THE COURT: Mr. Adler is standing up, so please
13 proceed.

14 DETECTIVE ADAM BOCK, GOVERNMENT'S WITNESS, SWORN

15 CROSS EXAMINATION

16 BY MR. ADLER:

17 Q Is it Agent Mitch-- Agent Bock?

18 A It's Taskforce Officer or Detective.

19 Q Okay.

20 So, who was your actual employer?

21 A I'm employed by the Houston Police Department.

22 Q Okay.

23 And how long have you been with HPD?

24 A Fifteen years.

25 Q And before that were you employed with any law enforcement

1 organizations?

2 A I was not.

3 Q Were you in the military before that?

4 A I was.

5 Q Okay. Who were you with?

6 A The Army.

7 Q And how many years in the Army?

8 A Six, technically. Some of that was Reserve time.

9 Q Okay.

10 And what did - what was your MOS, your job
11 responsibilities in the Reserves?

12 A So, I was a border observant for the field artillery. And
13 then, I was cross trained as a door gunner on a Black Hawk.

14 Q Okay. No law enforcement, though?

15 A No, sir.

16 Q And I assume you went through the HPD Academy?

17 A I did.

18 Q Okay.

19 And when did you first start working with the
20 FBI on a task- -- on any taskforce?

21 A Uh, that wa- --

22 Q Is this the first?

23 A It - this is technically the second. I believe it was
24 October 2018, I believe.

25 Q Okay.

1 A About five years.

2 Q And so, what other positions have you had with HPD?

3 A Currently, I'm assigned in the Gang Division. Prior to
4 that, I was a Homicide Detective on the Gang Murder Squad.
5 Prior to that, I was also at the Gang Division working
6 transnational crime.

7 Prior to that assignment, I was in the Northeast
8 Division on a Divisional Gang Unit. Prior to that, also at
9 the Northeast Division on a Tactical Unit. Prior to that, at
10 Northeast on the Gang Taskforce; prior to that was patrol.

11 Q Okay.

12 And - I'm sorry - but your last name is spelled
13 B-O-C-K?

14 A Just like the beer, yes, sir.

15 Q Okay.

16 And are you reviewing any notes up there with
17 your testimony today?

18 A Only the - only the proffers as read.

19 MR. ADLER: Could I just review that momentarily,
20 Judge?

21 THE COURT: Sure.

22 (Pause in the proceedings.)

23 MR. ADLER: Thank you, Judge.

24 BY MR. ADLER:

25 Q Officer - is it Officer Bock?

1 A Detective.

2 Q Detective - I'm sorry.

3 Detective Bock, I think you'll be the only
4 witness testimony testifying for the Government today,
5 correct?

6 A Yes, sir.

7 Q So - and you know the Judge is going to make his decisions
8 today based on your testimony and your credibility, correct?

9 A Yes.

10 Q So, with that in mind, can you tell us if you've had any
11 kind of disciplinary issues while you've been with HPD or in
12 the military?

13 MR. PARADISO: Your Honor, I object at this time.
14 Any of that would go through an ex parte hearing.

15 THE COURT: Overruled.

16 BY MR. ADLER:

17 Q Did you understand the question?

18 A Yes. I have not received any - any penalties or - I have
19 received complaints at the Houston Police Department. They
20 have been either unfounded or - what is the other one?

21 Q I understand.

22 A Okay.

23 Q Can you tell us, generally, what the complaints were; what
24 kind of complaints have been filed against you?

25 A Misconducts and excessive force.

1 Q And about how many of those complaints were filed against
2 you?

3 A I - more than four. I don't - it was just a long time
4 ago. I don't -

5 Q Okay.

6 A -- remember.

7 Q Okay. Thank you.

8 I'm - I apologize in advance if some of my
9 questions kind of stoop at the - the AUSA was reading, and we
10 were scribbling notes as quickly as we can. So, I apologize
11 for that.

12 A Yes, sir.

13 Q The long and the short of it is you have a CHS who is
14 talking with an individual; this discussion comes up about a
15 drug rip, if you will, a drug robbery. And then, there's a
16 meeting at a hotel; is that correct?

17 A Yes.

18 Q Was Mr. Mitchell at that meeting?

19 A The initial one?

20 Q The hotel meeting? I'm pretty sure he was not at - I'll
21 ask you that in a second - but the hotel meeting?

22 A I - I believe there were two. There were two meetings.

23 Give me a second.

24 Q Sure.

25 (Pause in the proceedings.)

1 THE WITNESS: I don't believe he was inside of the -
2 the hotel room.

3 BY MR. ADLER:

4 Q Okay. And what was the date of that meeting at the hotel
5 room?

6 I thought I had it as the 26th?

7 A It's -

8 MR. PARADISO: July 27th, the date of the incident.

9 THE WITNESS: The 26th was the initial - I think -
10 time when they decided where the meet would be.

11 BY MR. ADLER:

12 Q Okay.

13 A So, July 27th was the date of the meeting.

14 Q Okay.

15 Was Mr. Mitchell at the 26th meeting?

16 A No, sir.

17 Q And he wasn't at the 27th meeting?

18 A I - he didn't - wasn't inside of the room, not necessarily
19 that he wasn't in the parking lot.

20 Q Okay. Where was he on the 27th?

21 A I - I - well, at a certain point he was - here on this -
22 on the meeting?

23 Q Right. When the meeting is going at the hotel, where was
24 Mr. Mitchell?

25 A I'm not sure.

1 Q Okay. Tell the Judge every single piece of evidence you
2 have that Mr. Mitchell was at that hotel vicinity during that
3 meeting.

4 A I don't have that prepared to respond.

5 Q So, you don't have any information for this Judge
6 whatsoever today that Mr. Mitchell was at that hotel during
7 that meeting?

8 A No.

9 Q Okay.

10 The individuals are observed -

11 A I'm sorry. Let me correct that.

12 Yes, because all the vehicles were being
13 surveilled. At the points that the vehicles left the - the
14 hotel and arrived at the - at the robbery location, he was
15 seen there, so by logic he had to have been - when a pit stop
16 is made, he had to have been at - at the hotel.

17 Q Well, let me follow up on that.

18 I think you said when they arrived at the scene
19 of the supposed robbery they were all wearing masks?

20 A I apologize.

21 So, Mr. Mitchell was seen at - at the hotel,
22 because we were able to figure out who they were at the hotel
23 time because of what - well, for Mr. Mitchell in particular
24 this is unique first off.

25 Q Okay. So, who observed Mr. Mitchell at the hotel?

1 A Officers with the HPD Gang Units.

2 Q And what are their names that observed - the ones that
3 observed Mr. Mitchell?

4 A I don't know currently at this time.

5 Q How did they observe Mr. Mitchell? Where was he when they
6 observed him?

7 A He was inside of the room.

8 Q Okay. So, he's recorded on video tape inside the room?

9 A I would presume based on that, yes.

10 Q I don't want your presumption; I want your testimony.
11 Does it say anything in the proffer about Mr. Mitchell being
12 in that room?

13 A It does not say in this proffer.

14 THE COURT: Okay. I'm totally confused.

15 Under oath, was he in the room? Yes or no?

16 THE WITNESS: I - I believe he was, but -

17 THE COURT: That wasn't question. Yes or no was he
18 in the room? Do you know?

19 THE WITNESS: I don't.

20 THE COURT: Okay.

21 MR. ADLER: Thank you.

22 BY MR. ADLER:

23 Q So, if you don't know whether he was in the room and then
24 you see - or your fellow officer see individuals wearing masks
25 at the golf course location, you're just guessing that one of

1 those individuals in the masks was Mr. Mitchell, correct?

2 A Now, at some point he wasn't wearing a mask.

3 Q Okay. What point was that?

4 A So - the clothing was the same. He had been seen in the
5 vicinity of the hotel or in the room -

6 Q But I thought you just said you don't if he was in the -

7 THE COURT: Hold - hold - hold on. Hold - hold on.
8 Hold on.

9 Was he seen in the hotel room? Yes or no? Or I
10 don't know?

11 THE WITNESS: I - I don't know.

12 THE COURT: Okay.

13 Was he seen in the vicinity of the hotel? Yes
14 or no, or I don't know?

15 THE WITNESS: I don't know.

16 THE COURT: Okay.

17 MR. ADLER: Can I continue?

18 THE COURT: Yep.

19 BY MR. ADLER:

20 Q So, you don't know if he's at the hotel or not. And then
21 the individuals at the golf course are all wearing masks,
22 correct?

23 A Correct.

24 Q So, you're assuming that one of those individuals in the
25 masks was Mr. Mitchell, right?

1 A Correct.

2 Q But you, by your own admission can't figure out how he got
3 to that place, if, in fact, it was Mr. Mitchell, because he
4 wasn't observed at the hotel, or you don't know if he was at
5 the hotel?

6 A So, I - I do not know if he was at the hotel. I - I was
7 debriefed on these, I was not present during the events.
8 This information was presented to a grand jury, so I know this
9 to be true. I just - there's been a couple of these. I
10 cannot specifically remember -

11 Q I get it.

12 A -- from this one.

13 Q I get it.

14 But let's be honest. What's presented to a
15 grand jury is not necessarily true. It's just the grand jury
16 decides whether or not the case should precede, right?

17 A I - I disagree. That's - it's perjury if it wasn't true.

18 Q Okay. Who was the Officer that testified at the grand
19 jury?

20 A Colton Peverill.

21 Q I'm sorry. Could you give me that name again?

22 A Colton Peverill with HPD.

23 Q How do you spell the last name?

24 A P-E-V-E-R-I-L-L.

25 Q Okay.

1 Do you know anything about his disciplinary
2 history at HPD?

3 MR. PARADISO: Objection, Your Honor. This goes way
4 outside the scope of this hearing.

5 THE COURT: I'm - I'm going to give both sides a lot
6 of leniency, so.

7 Overruled.

8 BY MR. ADLER:

9 Q Do you know anything about Officer or Detective
10 Peverill's -

11 A I don't.

12 Q Okay.

13 And certainly, in your career you've heard of
14 false testimony being provided to grand juries, right?

15 A No.

16 Q Never heard of that?

17 A I haven't.

18 Q Impossible.

19 A I didn't say it was impossible; I just said I haven't
20 heard of it.

21 Q Okay.

22 So, somebody told you that Mr. Mitchell was
23 there at the hotel?

24 A I also reviewed the video, because all of it was recorded.
25 I just at this time do not specifically remember whether he

1 was in the room or not.

2 Q Okay. But obviously, you would agree with me that's a
3 pretty critical fact for this hearing today?

4 A I don't think it's critical for this hearing, because he's
5 already been indicted. I think that this hearing is critical
6 to determine whether or not he is a danger to the community.

7 Q Okay. And you understand that one of the factors that
8 this Court considers is the weight of the evidence, right?

9 A Correct.

10 Q So, whether he's in that room or not would go to the
11 weight of the evidence. You would agree with me on that,
12 right?

13 A Sure.

14 Q Okay.

15 Were you present when my client was arrested?

16 A I was not.

17 Q Okay. Do you know any information at all about what
18 happened when he was arrested?

19 A Very little.

20 Q Okay.

21 That's all I have at this time, Your Honor.

22 THE COURT: Okay.

23 Anything from the Government?

24 Actually, from the other Defendants?

25 Too quick deal.

1 MR VAZQUEZ: Mr. -

2 THE COURT: Mr. Vazquez?

3 MR. VAZQUEZ: I'll go, Judge.

4 CROSS EXAMINATION

5 BY MR. VAZQUEZ:

6 Q Detective Bock, so there were four people present at the
7 hotel meeting, correct?

8 A (No audible response.)

9 THE COURT: Let me ask it a different way, because I
10 want to make sure I understand it.

11 Who was at the hotel meeting?

12 THE WITNESS: It was Travon Maxwell, Fugitive,
13 Derrick Butler and another individual.

14 BY MR. VAZQUEZ:

15 Q That's an unidentified individual, correct?

16 A I believe so - Male 1.

17 Q Okay.

18 Was Mr. Jenkins in that meeting?

19 A I do not -

20 Q Or -

21 A I do not believe so.

22 Q Okay.

23 So, no, he was not there, correct?

24 A I - I do not believe so.

25 Q According to the proffer, he wasn't at that meeting,

1 correct?

2 A So, the proffer doesn't say "he wasn't." The proffer just
3 states he was.

4 Q Okay.

5 A So, I do not know for sure.

6 Q Okay.

7 And according to the proffer, it was Butler and
8 Maxwell that were basically running the show, correct?

9 A Yes.

10 Q And who were the three individuals that went to the
11 convenience store according to the proffer?

12 A It would be the Fugitive, Maxwell and a - I don't remember
13 his name - another individual.

14 Q So, not Mr. Jenkins?

15 A Correct.

16 Q And then, it goes on to say that Mr. Jenkins is seen
17 getting into a Dodge, correct?

18 A Yes.

19 Q Where was - where did that happen at?

20 A At the hotel.

21 Q Are you sure about that? That's what the proffer says?

22 A Yes.

23 Q Okay. But you weren't present, correct?

24 A I was not.

25 Q So, you're just relying on other officers' information?

1 A That's correct.

2 Q Okay. And then, he's seen getting out of the Dodge and
3 getting into a Mitsubishi?

4 A Yes.

5 Q And then, that Mitsubishi is followed, drives pass the
6 target location, goes to the 7-Eleven, correct?

7 A I don't think I offered that the - that the Mitsubishi
8 went to the 7-Eleven.

9 Q Well, at some point, according to the proffer, Mr. Jenkins
10 gets out of a car, the car he was in, and gets in the Charger
11 at the 7-Eleven, correct?

12 A Correct.

13 Q So, the car he was in was a Mitsubishi; obviously, it had
14 to go to the 7-Eleven?

15 A Makes sense.

16 Q Okay.

17 So, it goes to the 7-Eleven; Mr. Jenkins gets
18 out and gets in the Charger?

19 A Correct.

20 Q Okay.

21 Where - and it doesn't say at any point the
22 Charger went into the target location, except for later on,
23 correct?

24 A After the - what I would assume the initial clearing - it
25 then drove on the property towards the target location.

1 Q Did anybody get out at that point?

2 A I do not believe so.

3 Q Then, they stop short of the pump house, left, correct?

4 A Yes.

5 Q Okay.

6 And then, eventually they were stopped by HPD?

7 A Yes.

8 Q And that was Mr. Draper and Mr. Jenkins, correct?

9 A Yes.

10 Q And they were released from the scene, correct?

11 A That's correct.

12 Q To your knowledge, did they have any weapons on them?

13 A Not to my know- -- well, not to my knowledge, no.

14 Q And the vehicle was not searched, correct?

15 A That's correct.

16 Q So, really, all Jenkins did, according to the proffer, was
17 get out of one car into another, which drove onto the
18 property, and then left?

19 A No.

20 THE COURT: What - what did Jenkins do?

21 THE WITNESS: So, Jenkins - well, he entered into a
22 vehicle that then drove in a convoy to go do a robbery, drove
23 back and forth in front of the location, waited for his co-
24 Defendants to open the location, go inside and engage any
25 individuals that would be at the location.

1 He then drove onto the property, at which point
2 in an operation like this someone would then load up
3 narcotics, since they were expecting a 122 kilograms of
4 cocaine. And then, upon finding none, they then did the
5 surveillance detection routes to avoid law enforcement before
6 driving back to their area of town.

7 THE COURT: Did he ever get out of the car on the
8 property?

9 THE WITNESS: I - I - I don't believe so.

10 BY MR. VAZQUEZ:

11 Q Okay. So that - so you're just speculating what he was
12 doing based on what - your experience, correct?

13 A I think that's a reasonable belief.

14 Q Well, reasonable belief and evidence are two different
15 things; are they not?

16 A A - a belief is based on evidence.

17 Q Okay. And the evidence here is, he gets out of one car;
18 he gets into another car, sits at the 7-Eleven, drives onto
19 the location, leaves the location; according to you, drives
20 around, gets stopped by HPD, is released by HPD and then goes
21 home?

22 A Yes.

23 MR. VAZQUEZ: Nothing further, Judge.

24 MR. VINAS: May I proceed, Your Honor?

25 THE COURT: You bet.

1 CROSS EXAMINATION

2 BY MR. VINAS:

3 Q Okay. Detective Bock, let me start with that traffic
4 stop.

5 Who were the - who were the occupants of the
6 vehicle?

7 A It was Draper and Jenkins.

8 Q Who was the driver?

9 A I believe it was Draper.

10 Q Do you know what traffic offense they were pulled over
11 for?

12 A I don't.

13 Q And that doesn't appear in any report you've reviewed?

14 A No.

15 Q Most likely under Texas Transportation Code an arrestable
16 offense?

17 A I - I don't know.

18 Q Well, there's only two -

19 A That's correct.

20 Q -- non- -- non-arrestable offenses in the Texas
21 Transportation Code, correct?

22 A That's correct. However, our policies are a little bit
23 different.

24 Q I understand.

25 But those two non-arrestable offenses are

1 speeding and open container of an alcoholic beverage, correct?

2 A Yes.

3 Q Everything else you can - expired inspection sticker you
4 can arrest somebody?

5 A Again, that's not what our policy states; it's what the
6 Texas law states.

7 Q Okay. Well, I'll rephrase it that way.

8 Under the law, for an expired registration, you
9 can arrest somebody?

10 A Under the law, yes.

11 Q Okay. Or failure to signal a lane change, same. Under
12 the law, you could arrest them, right?

13 A Uh-huh.

14 Q Correct?

15 A Yes.

16 Q Okay.

17 All right. Just remember you got to be audible
18 for the record.

19 So, just probability says it's an arrestable
20 offense more likely than not that Mr. Draper was pulled over?

21 A Well, it- -- I mean, it's also assuming that the reason
22 for the traffic stop was because of a traffic violation.

23 Q Well, what was the reason for the traffic stop?

24 A I - I don't know, but it would make perfect sense if it
25 was a reasonable suspicion stop following the events that had

1 occurred.

2 Q Okay. Well, good point.

3 The pump house that the gas they - or - excuse
4 me - at the golf course was that audio video recorded?

5 A It was.

6 Q So, it was more than reasonable suspicion at that point.
7 You had probable cause of several crimes going on?

8 A Knowing what the investigative team knew at that point, I
9 can't speculate as to whether they knew everyone's identities
10 or everybody's roles at that point. So, I don't know if it
11 would have been enough to on-the-spot arrest them for probable
12 cause or not.

13 Q Okay. Did they ever lose site of the vehicle that they
14 stopped with Draper and Jenkins in it from the time it left
15 the golf course to the traffic stop?

16 A I don't believe so based on my recollection, but I - I
17 don't know for sure, because we were utilizing aerial
18 surveillance as well.

19 Q Did they - do you know if those officers asked for consent
20 to search the vehicle?

21 A I don't know.

22 Q So, at that point - on what day was this - July 27th?

23 A Yes.

24 Q So, on July 27th, 2023, Officers had at least reasonable
25 suspicion that Mr. Jenkins and Mr. Draper had just conducted

1 an armed robbery, correct?

2 A Or had participated in one, yes.

3 Q Sure.

4 And possibly he had evidence of that armed
5 robbery in that vehicle?

6 A Okay.

7 Q Correct?

8 A Yes.

9 Q And decided not to search it, correct?

10 A Yes.

11 Q And let Mr. Jenkins and Mr. Draper go?

12 A Yes.

13 Q And when were Mr. Jenkins and Mr. Draper arrested?

14 MR. PARADISO: Your Honor, I'm going to object. I
15 don't know what this goes to the Detention Hearing here today.

16 MR. VINAS: Well, if they were a danger to the
17 community, the police should not have released them on that
18 scene, after they had them detained.

19 THE COURT: Objection overruled.

20 BY MR. VINAS:

21 Q Again, were they arrested - Mr. Jenkins and Mr. Draper?

22 A They were arrested this past Thursday, the 24th, I
23 believe.

24 Q So, just shy of 30 days after the fact?

25 A Yes.

1 Q Who drafted the - the arrest warrants? Was that you?

2 A They were - they were indicted. So, the arrest warrants
3 were just from the Magistrate.

4 Q So, direct to the grand jury and then once the Indictment
5 happened, the warrants ensued?

6 A Correct.

7 Q Okay.

8 Now, let's go back to the pump house.

9 What vehicle did you testify that Mr. Butler was
10 in?

11 A The Mitsubishi Outlander.

12 Q Did the Mitsubishi Outlander ever drive on to the golf
13 course?

14 A No.

15 Q It stayed at the 7-Eleven across the street from the golf

16 A I believe so.

17 Q At the - earlier before they left to go to the 7-Eleven
18 and then the actual scene of the plan, rip, three of - three
19 people went to a convenience store to get duct tape, you said?

20 A Yes.

21 Q And in fact, there is surveillance video showing that they
22 shoplifted that duct tape?

23 A Yes.

24 Q And none of those three individuals was Mr. Butler,
25 correct?

1 A Correct.

2 Q Okay.

3 The operation began back on July 24th, 2023; is
4 that correct?

5 A Yes.

6 Q When the Confidential Human Source contacted Mr. Maxwell?

7 A Yes.

8 Q So, that was somebody at the operation - at the direction
9 of your taskforce contacted Mr. Maxwell and stated that there
10 was going to be a 122 kilos at this location?

11 A Correct.

12 Q And there never were a 122 kilos, to your knowledge,
13 anywhere involved in this?

14 A No.

15 MR. VINAS: I'll pass the witness, Your Honor.

16 THE COURT: Okay. Anything further from the
17 Government?

18 MR. PARADISO: Oh, yes.

19 Sorry, Your Honor. I thought there was one
20 more. I totally forgot.

21 Yes, Your Honor.

22 [RE]DIRECT EXAMINATION

23 BY MR. PARADISO:

24 Q Detective Bock, let me ask you a few questions.

25 When the individuals went to the hotel, the

1 Residence Inn, was there a video surveillance within the room?

2 A There was.

3 Q Okay.

4 And outside the room, do you know - did the
5 hotel have video surveillance also?

6 A Yes.

7 Q Okay. And as part of the investigation, did the FBI
8 gather that intelligence - that out- -- that hotel
9 surveillance?

10 A It did.

11 Q Okay.

12 Additionally, to that surveillance, were there
13 HPD and other law enforcement officers around the location
14 observing it?

15 A They were.

16 Q And were those members of the HPD gang taskforce?

17 A The Gang Division, yes.

18 Q Okay. And are those individuals familiar with individuals
19 who are part of or associates of the Early Boys Scoot-up Gang
20 (phonetic)?

21 A Very familiar.

22 Q Okay.

23 While they were there, did they observe
24 individuals who were in the four vehicles that were used in
25 the robbery?

1 A They did.

2 Q Okay. At that time, were they able to identify them
3 either by their physical features or just maybe potentially
4 their knowledge of that individual?

5 A Yes.

6 Q Okay. And while there, did they see them wearing clothing
7 that they had on that day?

8 A They did.

9 Q And based on that, did they then observe those individuals
10 get into the four vehicles?

11 A They did.

12 Q And when they got into those four vehicles, were the HPD
13 Gang Division individuals able to identify who go into what
14 vehicle?

15 A They did.

16 Q Okay. Once those vehicles started taking off down the
17 road from the Residence Inn to the target location, were they
18 surveilled at that time?

19 A They were.

20 Q And was that continuous surveillance?

21 A It was.

22 Q And was that aerial surveillance?

23 A It was.

24 Q And so, those vehicles were watched the whole time?

25 A Yes.

1 Q And is - to your knowledge, did those vehicles, other than
2 what was talked about in the proffer, ever stopped and
3 individuals get out or get into those vehicles?

4 MR ADLER: I'm sorry. I don't mean to interrupt.

5 I just have a lot of objections, but the
6 leading has gone on for quite a while, Your Honor. I would
7 rather it just be in question and answer form rather than
8 leading.

9 MR. PARADISO: Okay.

10 THE COURT: Sustained.

11 MR. PARADISO: Yes, Your Honor.

12 Uh- --

13 THE COURT: Just rephrase.

14 MR. PARADISO: Yes, Your Honor.

15 BY MR. PARADISO:

16 Q Are you aware - did those individuals ever stop, other
17 than what's in the proffer, to get in and out of those
18 vehicles?

19 A I don't believe so.

20 Q Okay.

21 THE COURT: Do you know? Yes or no?

22 THE WITNESS: No.

23 BY MR. PARADISO:

24 Q Okay.

25 But there was continuous aerial surveillance on

1 those vehicles?

2 A Yes.

3 Q All right.

4 And with Mr. Jenkins, there was discussion of
5 whether or not he was in the meeting? Yes?

6 A Yes.

7 Q Okay.

8 THE COURT: What do you mean - you mean the questions
9 were asked?

10 MR. PARADISO: I'm sorry.

11 THE COURT: Okay.

12 MR. PARADISO: I'm sorry, Your Honor.

13 BY MR. PARADISO:

14 Q The questions that were asked.

15 Well, based on your review, do you know were the
16 HPD Officers able to identify Mr. Jenkins outside in the
17 Residence Inn parking lot?

18 MR. VAZQUEZ: Objection. Leading, Judge.

19 THE COURT: Overruled.

20 THE WITNESS: In the Residence Inn parking lot?

21 BY MR. PARADISO:

22 Q Yes.

23 A Yes. They saw him getting into the gray Dodge Charger.

24 Q So, they were able to identify him?

25 A Yes.

1 Q Okay.

2 And then, for Mr. Butler, did you have a chance
3 to review the video surveillance that was within the hotel
4 room?

5 A I did.

6 Q Okay.

7 And at that time are you aware did he brandish a
8 firearm?

9 A He did.

10 Q Okay.

11 And do you recall the statements that he made in
12 a proffer; were those that he made?

13 A I do.

14 Q Okay. There was the question regarding whether or not he
15 went to the store to get the duct tape. Who is the one who
16 told the individuals to go get the duct tape?

17 A Defendant Derrick Butler.

18 Q Okay.

19 And while this was occurring, Mr. Butler's
20 vehicle was located where when the individuals went on to the
21 golf course?

22 A I believe it was at the 7- -- well, I'm not - I'm not
23 sure. At -- it was outside of the - in close vicinity, but I
24 don't know exactly where, what parking lot he was in.

25 Q So, he was in a parking lot outside the vicinity?

1 A In- -- inside the vicinity, like, within the vicinity,
2 yes.

3 Q Okay. And so, do you know - did he have a view of the
4 golf course and the individuals going in?

5 A Yes.

6 Q Okay.

7 And when they were - when the individual was
8 going to open the gate, what was Mr. Butler doing with his
9 vehicle?

10 A He was driving up and down, back and forth in front of the
11 location where the gate was.

12 Q And waiting for it to open?

13 A Yes.

14 Q And once it opened, what did he do?

15 A He - he stopped moving.

16 Q Okay.

17 No more - no more questions, Your Honor.

18 THE COURT: Okay.

19 Anything further from the Defendants?

20 MR. VAZQUEZ: Briefly, Judge.

21 RECROSS EXAMINATION

22 BY MR. VASQUEZ:

23 Q You didn't see Mr. Jenkins there, correct?

24 A I didn't.

25 Q So, you're just relying on other Officers, correct?

1 A That's correct.

2 Q And you said that Butler was driving the first vehicle,
3 correct?

4 A Yes.

5 Q And then, Draper was driving the other vehicle that
6 Mr. Jenkins allegedly got into, correct?

7 A Yes.

8 Q So, at no point was Mr. Jenkins driving?

9 A Correct.

10 Q And you said this happened on the 26th or 27th of July,
11 correct?

12 A Yes.

13 Q And they were arrested August 24th?

14 A Yes.

15 Q Did you know where Mr. Butler - or Mr. Jenkins was?

16 A At - yeah, we identified him as part of the round-up
17 efforts is where he was standing, so, yes.

18 Q But you waited until you went to the grand jury to arrest
19 him, correct?

20 A Until after. After we had - we had an arrest warrant,
21 yes.

22 MR. VASQUEZ: Nothing further, Judge.

23 THE COURT: Okay. Anything further from any of the
24 other Defendants?

25 MR. VINAS: Briefly, Judge.

1 RE CROSS EXAMINATION

2 BY MR. VINAS:

3 Q Detective Bock, you said that Mr. Butler was - he directed
4 the individuals to go to the convenience store to get the duct
5 tape?

6 A Yes.

7 Q But then later when they were leaving somebody tried to
8 put duct tape on the license plate, and then another member
9 told them, don't bother with that; don't do that.

10 A Yes.

11 Q And I'll ask the same questions that Mr. Vazquez just did.

12 Between July 27th and August 24th, did you know
13 where Mr. Butler was?

14 A The entire time? Are you asking the entire time, or -

15 Q At times.

16 A Or at some point?

17 Q Yes.

18 A At some point we - we did - we learned where - this is
19 what I meant the last - we didn't know his location the entire
20 time, but as part of the efforts to locate all the individuals
21 to arrest them simultaneously, we did discover the location.

22 Q And that was here - the - the location you discovered
23 Mr. Butler at was here in Houston, Texas?

24 A It was.

25 Q Were you present at the time of his arrest?

1 A No.

2 Q Do you have any details as to what happened at his arrest?

3 A I got - I'm aware - I was in the - under the Operation
4 Center type thing, so I'm aware that a SWAT team went to the
5 location and effected his arrest.

6 Q No details other than that that you're aware of?

7 A No.

8 MR. VINAS: Pass the witness, Your Honor.

9 THE COURT: Okay.

10 Thank you very much, Detective Bock.

11 You may step down from the witness stand.

12 Anything further from the Government?

13 MR. PARADISO: Nothing further from the Government,
14 Your Honor.

15 THE COURT: Any proffer, any witnesses on behalf of
16 the Defendants?

17 MR. ADLER: Yes. Your Honor.

18 THE COURT: Mr. Adler?

19 MR. ADLER: On behalf of my client, I would - first
20 of all, his mother, cousin and girlfriend are here in the
21 audience.

22 Would you stand just so the Government can see
23 ya'll?

24 Thank you.

25 You can be seated.

1 I would proffer the testimony of his cousin,
2 LaPortia Howard (phonetic). She's 23 years old, a U. S.
3 citizen, no convictions. She works parttime for a security
4 company and fulltime for a food service company. And she does
5 not own her own residence, Your Honor. She is renting.

6 But she would testify that she's known my client
7 their entire lives. He has not been violent, that he's not a
8 risk of flight, and she is willing to sign on his bond as a
9 surety to guarantee the Court that he would appear.

10 Also here is Elisa Ruiz, his girlfriend - my
11 client's girlfriend of two years. She is 23 years old as
12 well, a U. S. citizen, no convictions. She has worked for two
13 years at a daycare.

14 She and my client live in Section 8, Government
15 sponsored housing, but she will also testify that she has not
16 seen my client be violent, that she believes he's not a risk
17 of flight and is willing to sign on any bond should the Court
18 see fit to grant bond in this hearing.

19 Those are the only proffers I have for
20 Mr. Mitchell, Your Honor.

21 THE COURT: Okay.

22 Thank you very much.

23 Mr. Vazquez?

24 MR. VAZQUEZ: Yes, Judge.

25 I, too, also have proffers.

1 Present today in the courtroom are Mr. Jenkins'
2 grandmother, Mary Jenkins. She retired from here, actually.
3 She was on the custodian staff here in the building for many
4 years, recently retired.

5 She does have her own residence, which is about
6 ten minutes from where Mr. Jenkins resides.

7 We also have his father, who is also present,
8 Jeremy Jenkins - I'm sorry - Jerry Jenkins.

9 Mr. Jenkins is Jeremy's supervisor at work.
10 They work for ATT Plastics, and Mr. Jenkins would testify that
11 as the supervisor he would be having Jeremy on the same shift
12 as him, so he can monitor him at work.

13 As well, Mr. Jenkins worked - or Jeremy worked
14 there for, I believe, for about a year after high school and
15 continues to work there, and obviously, would be willing - the
16 father said he - you know - could continue to work there. So,
17 he would have stable employment.

18 We also have his sister present, Janisha Jenkins
19 (phonetic). She is a student. She does - she works full- --
20 or parttime at Hobby Airport. She works the 4:00 a.m. to noon
21 shift at Hobby Airport. She also goes to school for a Medical
22 Assistant.

23 And then, finally, Judge, we have his mother
24 present. His mother is - I'm sorry - I have the name here -
25 LaTarsha Misuria (phonetic). She does reside in Houston.

1 Probation has identified her as the third party custodian, a
2 suitable third party custodian.

3 I have spoken to her. She is willing to sign
4 for that. She does work for HISD. She works during the lunch
5 hours, especially. That's - her job is - is the food
6 services.

7 I have all of their contact information, all of
8 their phone numbers. Everybody's willing to make sure that
9 Mr. Jenkins comes to and from court as required.

10 They will all testify that they have not seen
11 him be violent in any ways. And would also testify that
12 Mr. Jenkins does not have any history and does not pose a
13 danger to himself or others, as well as not a flight risk. He
14 is a lifetime - they've all testified he is a lifetime
15 resident of Houston, Judge.

16 THE COURT: Okay.

17 Thank you very much.

18 Mr. Vazquez, with respect to Mr. Butler - Mr.
19 Vinas?

20 MR. VINAS: Yes, Your Honor.

21 For Mr. Butler, the entire back row of the
22 courtroom is here for Mr. Butler.

23 His father, Derrick Butler; his grandmother,
24 Shirley West; his girlfriend, Attorney Hart (phonetic); his
25 mother, Kelly West would all act as - as a surety and/or a

1 third party custodian.

2 They're all of age, United States citizens. I
3 do not believe anyone has any convictions that I've been able
4 to locate and would all - I specifically asked Ms. Hart the
5 difficult questions, as far as third party custodian, because
6 he lived there, would you watch over him and, most
7 importantly, if Mr. Butler were to violate any bond conditions
8 would you then be willing to notify the Court that he has done
9 so, and she said, absolutely, she would do that.

10 He's got no mental health diagnosis. He's - his
11 ties to the - his family ties to the community, he's got two
12 young children, a three-year old son, Derrick and a one-year
13 old son, Decari (phonetic), both of whom live with
14 Mr. Butler, and when Ms. Hart is working, he takes care of
15 those boys.

16 In fact, today is his older son, Derrick's first
17 day of school, and he missed that, obviously, because he's
18 here. But he takes an active role in - in raising his two
19 sons and supporting them.

20 He also has - the mother of his - of his older
21 son - Ms. Hart, is the mother of his younger son. The mother
22 of his older son, Ms. Ragston (phonetic), also lives here in
23 Houston. Mr. Butler's sister, Ariel Moore (phonetic); his
24 other sister, Derricka Butler (phonetic) and his brother
25 Travian Butler (phonetic), I believe they are here.

1 He's fulltime employed with the Robert Field
2 Fabrications as a welder and a welder helper. At times when
3 that employment - because they work on a contract basis -
4 slows down he does other things. Most notably, he's a horse
5 trainer for people in his area, got a word-of-mouth-type
6 business where he gets customers, people who need to have
7 their horses trained or they need to be trained on how to ride
8 and take care of their horses. So, he's - financially
9 supports his family that way.

10 He has lived in Houston his entire life. The
11 Pretrial Report indicates that he has a passport. He would be
12 willing to give that up. He's not traveled in two years with
13 that passport.

14 His history of drug use is relatively minor.
15 And -

16 That's all for the proffer, and then I will save
17 the rest for argument, Your Honor.

18 THE COURT: Okay. Great.

19 Thank you very much

20 Anything further from the Defendants or the
21 Government before we get to argument?

22 MR. PARADISO: Not from the Government, Your Honor.

23 THE COURT: Okay.

24 Let's hear from the Defense.

25 MR. PARADISO: Okay, Your Honor.

1 THE COURT: Okay. Let's - let's go to argument.

2 Presumption case, right?

3 MR. PARADISO: Yes, Your Honor.

4 THE COURT: Are you seeking detention on risk of
5 flight and danger to the community?

6 MR. PARADISO: Primarily, for dan- -- danger to -
7 excuse me, Your Honor - danger to the community. And
8 Mr. Butler would actually be a risk of flight. I don't
9 believe we're doing Mr. Maxwell at this time, right, Your
10 Honor?

11 THE COURT: Correct.

12 MR. PARADISO: And same thing with Mr. Mitchell,
13 given that he has another Indictment here that you will be
14 hearing tomorrow?

15 THE COURT: I'm not - so, who are seeking risk of
16 flight on?

17 MR. PARADISO: Oh, I'm sorry - Mr. Butler and
18 Mr. Mitchell, Your Honor.

19 THE COURT: Okay.

20 What evidence is there a risk of flight?

21 MR. PARADISO: Sure.

22 THE COURT: Are is it just - hey, they - well -

23 MR. PARADISO: Yes, Your Honor.

24 THE COURT: Let me ask that question.

25 MR. PARADISO: So, for Mr. - excuse me - so, for

1 Mr. Butler, he has numerous violations of his Pretrial Release
2 when he was on state time, has an extensive criminal history
3 and now, he's facing a significant amount of jail time.

4 He has failure to appear revocations, multiple
5 bond violations, so he would be a flight risk, potentially
6 just on those.

7 THE COURT: Okay.

8 MR. PARADISO: Obviously, he does have a past -

9 THE COURT: Why Mr. Mitchell?

10 MR. PARADISO: Sure.

11 Mr. Mitchell, Your Honor, is because he's facing
12 two Indictments here in this court on similar offenses. So,
13 he's facing an extensive criminal time, which would give him a
14 reason to flee.

15 I believe Your Honor is hearing that tomorrow
16 afternoon - tomorrow morning or tomorrow afternoon.

17 THE COURT: Okay. Let's - and Jenkins you're not
18 seeking a detention based on risk of flight?

19 MR. PARADISO: No, Your Honor.

20 THE COURT: Okay.

21 Let's start on danger to the community. Let's
22 start with Jenkins.

23 But why is he a danger to the community?

24 MR. PARADISO: Yes, Your Honor.

25 So, Mr. Jenkins, though he doesn't have a

1 criminal history, he went to a - rob a Mexican drug cartel of
2 a 122 kilos. He was there; he was in a vehicle with
3 Mr. Butler. He switched to go into the vehicle that was then
4 the secondary entry into the target location and was making
5 his way there, and at some point the individuals who were in
6 that location must have radioed them or somehow got in touch
7 with them to head back out of that location.

8 So, the plan was to go in, and as Mr. Butler
9 said in his - into the recording in the hotel, we're going to
10 kill them; we're going to smoke them, if we got to. So, they
11 were going into do that.

12 So, based on that, he is a danger to the
13 community. He is willing to associate with others who are
14 going to then do these drug rips and murder individuals. And
15 he made a conscious effort and choice to do that and,
16 therefore, he is a danger to the community, if released.

17 THE COURT: Okay.

18 Mr. Vazquez, I'll give you a chance to respond.

19 MR. VAZQUEZ: Yes, Judge.

20 I think the evidence speaks for itself.

21 Mr. Jenkins is not a driver of any of the vehicles. He's not
22 involved in any way of the planning of this supposed rip.

23 He allegedly is seen by HPD Officers, who we
24 have not heard - heard from, getting into one, driving to
25 the - apparently driving to the location, getting out of that

1 vehicle, getting in another vehicle. I believe Draper is
2 driving that - that second vehicle. They drive onto the
3 property, don't get anywhere near the target house; leave -
4 are stopped by HPD. They're stopped by HPD, as Mr. Vinas
5 rightfully pointed out. HPD at that point had all the
6 information that the surveillance teams had. They could have
7 very easily detained both Draper and Mr. Jenkins at the time
8 and if they felt that he was a danger to the community or to
9 himself, Your Honor.

10 THE COURT: Let's say - I'm just curious. What's the
11 Government's response to that?

12 MR. PARADISO: Yes, Your Honor.

13 It was an ongoing investigation, and they were
14 still doing things. That's why at that point in time they did
15 not effectuate the stop.

16 THE COURT: Okay.

17 MR. VAZQUEZ: So, he's released; no weapons are found
18 on him. No search is conducted; no weapons.

19 He's out presumably working for about a month
20 until the Government decides to - to seek the Indictment
21 and - and go from there, so obviously, not a danger to
22 himself. If he - he was, he would have an extensive criminal
23 history. He has no criminal history.

24 He's a young man. He was supposed to start TSU
25 this fall. Unfortunately, due to this, he's - he's not able

1 to - to start. He's graduated high school. He's got plenty
2 of family. I'm sure the Court is aware he's not a flight
3 risk.

4 He's got plenty of family. There's no weapons
5 in - in the homes. I have instructed the family that if there
6 are any weapons that they need to remove any weapons and that
7 the family is willing to comply with any conditions that the
8 Court may impose.

9 So, as far as danger to the community, Judge,
10 that he has no - he has no history, not alleged to have been
11 one of the ones involved in the planning, knowledge or been
12 one of the ones that actually entered into the - to the
13 location. All his involvement is, is getting in and being a
14 passenger in a vehicle that's driven by others.

15 So, at this point, Judge, I would argue that
16 that's insufficient to meet the - the high standard of danger
17 to - to himself or to others, and we would be asking for
18 release, Judge.

19 THE COURT: Okay.

20 Thank you very much.

21 Let's talk about Mr. Butler. And I guess -
22 Mr. Vinas, help me out.

23 I have a feeling I - I know what the Government
24 is going to say, which is, hey, he brandished a firearm; he
25 had a willingness to use a weapon as part of a robbery. He

1 was the ring leader, and then, they're going to point to his
2 criminal history and say, hey, it's not just an extensive
3 history, but I think I counted six times where he violated the
4 terms of his release.

5 How do you overcome that?

6 MR. VINAS: I want to make sure I get of those.

7 You said, brandished a firearm; third was -

8 THE COURT: Well, I - I - you know, I don't want to -
9 I don't want to take - I'll see what else the Government says,
10 but I - I have a funny feeling that's at least going to be
11 the - the thrust of it. But -

12 I guess my question really is, how do you get
13 over the fact if I - if I want to put conditions, whether it's
14 risk of flight or danger to the community, how do I have any
15 confidence that he is going to comply with them, because every
16 single time he's been put on release he's just flaunted it;
17 he's violated the condition.

18 MR. VINAS: I'll take them in order.

19 THE COURT: Okay.

20 MR. VINAS: I agree I don't know what the Government
21 is going to say, but I'll directly focus on that issue, Judge.

22 THE COURT: Well, I want to focus on that issue.
23 That's the issue I want to focus on.

24 MR. VINAS: Sure.

25 Okay.

1 Well, as far as brandishing the firearm and
2 willingness to use it, that happened at a different day and at
3 least at a different location. I can't remember if that -
4 from the testimony if that was July 26th or July 27th, because
5 they talked about two different - two different meetings. But
6 willingness to use a firearm, he never went to the actual
7 crime scene. So, whether he said these things to the - to the
8 Confidential Informant or not - at some point I'm hoping we'll
9 get a video that will answer that question - that at best for
10 the Government is - is kind of being braggadocious. He didn't
11 even go to the location where the Government set up this fake
12 robbery to occur. He waited across the street. Whether or
13 not he could see -

14 Detective Bock doesn't know - doesn't know
15 whether he's got eyes on that, but even if he does, he never
16 moved. They went into the location, at least a couple of
17 vehicles. Four guys went in; it wasn't Mr. Butler, and then
18 Mr. Jenkins and Mr. Draper, according to the Government's
19 evidence, were in another vehicle on the location. Mr. Butler
20 never went there.

21 So, as far as brandishing the firearm and
22 willingness to use the firearm, I think - that just appears
23 that he was just maybe bragging.

24 I would disagree that he has extensive criminal
25 history. In fact, if you go through his history and we look

1 at the United States Sentencing Guidelines, he's still -
2 assuming he's - the Government can prove their case and he's
3 convicted, he's still a Criminal History Category 1.

4 So, you - because most of these cases were
5 dismissed. And the - when you go through and look - and as
6 you correctly pointed out, Your Honor, when he's had bail
7 revoked or failures to appear, if you look at those - if
8 you're looking at the first one, October 19th, 2020, bond
9 revoked; October 20th, 2020, bond reinstated, one day later.

10 Back in the next case, October 19th, 2020, bond
11 revoked. Three days later bond reinstated. The State of
12 Texas filed a Motion to Revoke his bond, but it does not
13 appear that that was - on November 24th, 2020, it doesn't
14 appear that that was ever granted, and then, that case was
15 dismissed.

16 In the next case on October 19th, 2020, failure
17 to appear, bond revoked. October 20th, 2020, bond reinstated.
18 These are not - and that's the same - just in interest of
19 time, I won't go through all of them, but that's the same
20 everywhere. Is it within a day or a week or two when his -
21 anytime these were revoked, they were reinstated. And, one, I
22 offer that to show the timeline.

23 THE COURT: Wait a minute. That's - that's not -
24 that's not true. But the - the next one - I agree with you so
25 far, but I- -- I'm looking at January 18th, 2022, Motion to

1 Adjudicate Guilt filed and bond revoked due to new law
2 violation - failure to submit drug test, failure to pay fees
3 and court costs, failure to complete education evaluation and
4 program.

5 Then, on 4/10/22, bond revoke violation -

6 MR. VINAS: So, going to that -

7 THE COURT: -- for all those items.

8 MR. VINAS: Going to that top one from January 18th,
9 2022, the next action the court took was they dismissed that
10 Motion to Adjudicate.

11 And I'll just tell you from my practice in
12 Harris County, these two - these three gentlemen at the table
13 with me and even AUSA Cooper can probably tell you that
14 doesn't happen without somebody showing back up in court.

15 So, the record is a little bit deplete there,
16 but there certainly was court action between January 18th,
17 2022 and April 21st, 2022, on that case.

18 The April 10th, 2022, which is the next one, you
19 talked about - I believe we got to go - it's not highlighted,
20 but on May 5th was when that bond was reinstated. So, that's
21 the longest one. That's only - that's approximately three
22 weeks until the bond was reinstated. That's not even when we
23 know whether or not he showed up to court before that or not.
24 That's when we know the Court decided to reinstate his bond.

25 So, every - every one of these, either the case

1 ultimately was dismissed, or his bond was quickly reinstated.
2 And the court - these - these judges - I know them all - would
3 not have reinstated his bond unless he was there or unless his
4 lawyer, whoever that was, gave sufficient reason to the judge
5 to say, hey, he was in the hospital or he was - something to
6 that effect, where they would reinstate it.

7 So, from looking at this record, I can tell he
8 showed back up relatively quickly and that these judges
9 reinstated those bonds, goes to show it was on some type of
10 technicality as opposed to him fleeing the jurisdiction.

11 And so, while, yes, it looks bad on paper when
12 you look at it from that perspective Mr. Butler anytime his
13 bond was revoked it was almost immediately reinstated, and he
14 followed those conditions until - in all but two of the
15 cases - the cases were dismissed, and in two of them he got
16 probation.

17 And I know that - I see the pensive look on your
18 face, Judge, that when I say he followed the conditions, when
19 you read that, well, there's a new law violation, those cases,
20 if you follow through the chart, most of those were ultimately
21 dismissed.

22 So, those are the three questions you had
23 asked -

24 THE COURT: No, no, no. I appre- -- I appreciate
25 that.

1 MR. VINAS: Thank you, Judge.

2 THE COURT: And I'll give you a chance to add
3 anything -

4 MR. VINAS: Sure.

5 THE COURT: -- else, but -

6 Let me hear from the Government on Mr. Butler.

7 MR. PARADISO: Yes, Your Honor.

8 One of the things the Government would say is,
9 yes, that's great that - that they gave him bond again, but we
10 don't know why the judge did that at those times.

11 Additionally, what you just kept hearing is
12 whenever the court ordered Mr. Butler to do something,
13 Mr. Butler decided he was going to do what he wanted to do and
14 disobey the court and the court had to bring him back in and
15 try to reinstate those each time. And he has extensive
16 history showing that he is not going to follow what the court
17 says, and he's going to do what he chooses to do.

18 Additionally, it's Mr. Butler who was there, and
19 he was the one who was telling - giving orders to people of
20 what to do. He was there on July 27th at the meeting in the
21 hotel right before everybody starts driving down the road.
22 And it was Mr. Butler's car who was in the lead going to the
23 location. And it was Mr. Butler who parked across the street
24 so that he could see within, and it was Mr. Butler who then
25 had Mr. Jenkins get in the other car so that Mr. Jenkins could

1 then go on to the property.

2 Mr. Butler brandished the firearm and talked
3 about going in smoking, these N words and how they were going
4 to kill people when they got there. And it's my understanding
5 based on his criminal history that Mr. Butler would have been
6 a felon at that time who was in possession of a firearm, which
7 he bragged about of what type it was and how he's used it on a
8 million missions.

9 So, Mr. Butler has shown that he is a danger to
10 the community. He is currently on probation while he
11 committed this offense also. So, he has not shown anything to
12 rebut the presumption that he's a danger to the community, and
13 he should be detained.

14 THE COURT: Okay.

15 Anything further?

16 MR. VINAS: I believe that Probation is a deferred
17 adjudication, so I don't think the Government can file a 922
18 case on him, so he would not be a felon in possession of a
19 firearm.

20 And, again, we don't know - it's speculation
21 unless the Government had a wiretap warrant for the inside of
22 the vehicle that Mr. Butler was driving, and there's no
23 evidence that they did - there's nothing to indicate that
24 Mr. Butler ordered Mr. Jenkins to get out of the vehicle and
25 go onto the property.

1 And I want to - I want to bring back up - I know
2 you've heard it already - the fact that whether there was an
3 ongoing investigation or not - if any of these men were a
4 danger to the community, they were under law enforcement
5 surveillance from multiple angles that night. And the case
6 law would, as we know, is just a little bit out of context,
7 say on a traffic stop, if law enforce- -- you don't have the -
8 the stopping Officer doesn't have to have all of the knowledge
9 himself. It's imputed from the other members of the team that
10 if he makes that - that traffic stop, then the other members
11 can radio into him either down from the helicopter hovering
12 right above or from other cars, go ahead and arrest them.
13 That was a strategic call that law enforcement made. And they
14 set these guys loose.

15 And as Detective Bock testified, they weren't
16 under constant surveillance with the 30 days that they were
17 allowed to - to be in our community. They - he didn't even
18 know where they were until after they knew they were getting
19 an Indictment and they went to find where these guys were.

20 So, if they were a danger to the community,
21 shame on them for letting them wander around for 30 days.
22 That seems just a little bit multifarious to make both of
23 those arguments.

24 Furthermore, this is not a case where law
25 enforcement just found out about some dope rip and sent in a

1 Confidential Informant and stopped it. This was a case where
2 law enforcement dreamed this up, contacted Mr. Maxwell, and
3 that's how this whole thing started. This was all conceived
4 and started by the Government, not by these guys.

5 So, I give that to the Court to - to respond to
6 what the Government has said. He's not a flight risk. He's
7 been here his entire life. His whole family is here. He's
8 not going anywhere. And he's not a danger to the community
9 for the reasons that we've put forth.

10 THE COURT: Okay.

11 Thank you very much.

12 With respect to Mr. Mitchell, from the
13 Government.

14 MR. PARADISO: Yes, Your Honor.

15 As the Government has noted for the Court,
16 Mr. Mitchell has - is facing another Indictment in this Court
17 for a similar offense. I believe you're hearing that
18 tomorrow, Your Honor. Therefore, based on that as we said
19 earlier, he would be a flight risk.

20 Additionally -

21 THE COURT: So, anytime someone is charged with two
22 crimes they are an automatic flight risk?

23 MR. PARADISO: No, Your Honor. But these are two
24 very serious offenses with an extensive amount of jail time,
25 which would make him a flight risk, in that name.

1 THE COURT: Okay.

2 MR. PARADISO: Additionally, it's my understanding,
3 from looking at the -

4 THE COURT: Well, let me ask you -

5 Well, go ahead. I'm sorry.

6 MR. PARADISO: No, no. Go ahead, Your Honor.

7 THE COURT: No, go ahead.

8 MR. PARADISO: Okay.

9 From the Pretrial Services Report, I don't
10 believe Mr. Mitchell has employment, or at least he may have
11 started employment about three days before he was arrested.
12 So, other than that, he had no other employment or ties to the
13 community in that way.

14 Excuse me.

15 He has used at least four aliases when he has
16 tried to - or had contact with law enforcement or individuals.
17 Additionally, he's - he's evaded arrest, and he has multiple
18 violent crimes that, unfortunately, the disposition at least
19 in the Pretrial Services Report is unknown to include
20 burglary, theft, possessing of a firearm and aggravated
21 robbery.

22 MR. ADLER: Sorry. What are you reading from?

23 THE COURT: Just talk - I don't -

24 MR. PARADISO: I'm sorry. I read the wrong guy. I
25 apologize.

1 I apologize, Your Honor.

2 THE COURT: Okay.

3 MR. PARADISO: I'm sorry about that.

4 Forgive me.

5 THE COURT: I was looking - I was trying to figure
6 out what I was -

7 MR. PARADISO: No, I apologize. The names -

8 THE COURT: Okay.

9 Let's talk about Mr. Mitchell.

10 MR. PARADISO: Yeah. I apologize. I need to put the
11 glasses on.

12 So - yeah. So, originally he did start work on
13 August 24th of 2023. In looking at his Pretrial Services
14 Report, he has violated his conditions of release before. So,
15 Mr. Mitchell here would be a danger to the community.

16 THE COURT: But what - what do I know from this?

17 Well, I mean - let's just walk through his
18 criminal history.

19 He's got some criminal trespass, misdemeanors,
20 some sort of - well, looks like four of them, a contempt of
21 court - whatever that is - disposition unknown. Then, there's
22 a felony possession charge. And it just says he got revoked
23 and spent two years in prison, but I don't know any - no one
24 has given me any facts on that, right?

25 MR. PARADISO: No, Your Honor, not -

1 THE COURT: Okay.

2 MR. PARADISO: I don't have any.

3 THE COURT: Okay.

4 And then, an unlawful possession of firearms.

5 Okay. So - well, what did he do?

6 MR. PARADISO: So, Mr. Mitchell is one of the
7 individuals who actually broke into the building with weapons
8 drawn - automatic weapons drawn to rob the - the drugs. He
9 was one of the four who went in the red Toyota Camry onto the
10 location, drove on to the location, made their way to the
11 building and then entered the building with weapons drawn to
12 try and rob the drug. Based on the video, it is long rifles
13 and then handguns with extended magazines.

14 THE COURT: Okay.

15 Anything else?

16 MR. PARADISO: No, Your Honor.

17 THE COURT: Mr. Adler?

18 MR. ADLER: Judge, I'm not sure I even need to
19 address the claim of what the Government says Mr. Mitchell did
20 at the scene, because I think the evidence is far from clear
21 that he was even there. The Agent went back and forth several
22 times on whether or not he could state Mr. Mitchell was in the
23 hotel room or the vicinity. Ultimately, when the Court asked
24 him, he said, no. How they can then claim he was at the scene
25 of the golf course when people were wearing masks is beyond me

1 at this point. I frankly think had this case been before you
2 for a probable cause hearing the Government would have quite
3 an uphill battle.

4 Nonetheless we have Indictments, so I am not
5 arguing probable cause. The question is, can the Court set
6 conditions of release that would reasonably assure - not a
7 guarantee but reasonably assure that Mr. Mitchell would not
8 flee and that he's not a danger to the community.

9 As far as fleeing, he's lived in Houston his
10 whole life. His family is here. He doesn't have a passport.
11 I'm not even sure, other than the trip to Louisiana, he's been
12 outside of this area very often. He's certainly has never
13 left the U. S.

14 So, I don't think the risk of flight argument
15 carries very well. I agree with the Court that - when the
16 Court raised the question about, well, two charges means
17 you're a flight risk, I think you can turn it around the other
18 way, which would be, well, if you only have charge against
19 you, then you're never a flight risk.

20 I don't know what the evidence is going to be
21 tomorrow. That's for tomorrow. The evidence here before you
22 today, the weight of the evidence today is extremely weak. He
23 has, as you said, some misdemeanor convictions. Frankly, I'm
24 shocked that the - anybody got time in jail for a criminal
25 trespass in Harris County, but it obviously happened to him a

1 number of times.

2 More importantly, he does have a conviction for
3 possession of a controlled substance. He was - he was given
4 four years deferred adjudication for that, and he was revoked.
5 And I will tell the Judge is because he failed a - a drug test
6 for marijuana. That was 10 months after he was put on the
7 deferred adjudication, and he spent time in prison as a result
8 of his sporadic - a drug problem - a marijuana drug problem.

9 I understand that the felony possession charge
10 is concerning to the Court, and I would point out that that
11 happened almost three years ago now and that I don't think -
12 it's not a violent offense. He didn't do anything with the
13 gun. He was just in possession of it. And I think there's
14 case law that supports the idea that, you know, possession of
15 a firearm alone does not per se indicate danger to the
16 community.

17 So again, the question is not can the Court
18 guarantee these issues, but can the Court reasonably assure
19 them. And I think the Court can send some very -

20 THE COURT: So, what conditions should I impose?

21 MR. ADLER: I think he should be restricted to his
22 home with an ankle monitor. If he's able to apply for some
23 job outside the home, we can certainly approach the Court or
24 Pretrial to see if he can get some release hours when he can
25 go to work. But keep him in the house the whole time, Judge,

1 that the - you know, the technology today - I don't have to
2 tell the Court, but - is such that if he steps 10 feet outside
3 that house Pretrial is going to know about it, and then we'll
4 get revoked.

5 You know, the days of just guessing what is he
6 doing when he's supposed to be at home are long gone. He just
7 can't leave the house. I don't have an problem with that. I
8 don't think he has any problem with that.

9 I do think - I would ask the Court, if the Court
10 is inclined to go that way, that you at least make an
11 exception for meetings with his lawyer and religious services
12 and, of course, medical appointments, if he needs them. But
13 he's in good health, so I don't think that would be a problem.

14 That's all.

15 THE COURT: Okay.

16 Anything further from the Government?

17 MR. PARADISO: Yes, Your Honor.

18 The Government would just note that in this
19 instance Mr. Mitchell had a weapon, and he went in and the HPD
20 Officers were able to identify who he was based on his
21 clothing that they - and where - that he wore when he went
22 into the building, and they were able to identify him wearing
23 those same clothing at the Residence Inn when they could see
24 his face. So, this will be the second time while he's been
25 out he has a weapon and, obviously, according to Defense

1 counsel, he can't possess it.

2 So, the Government does not believe there's any
3 conditions that would allow him to not be a danger to the
4 community.

5 THE COURT: What's your response to that, Mr. Adler?

6 MR. ADLER: My response is, I don't know what the
7 heck they're talking about. The Agent did not testify that he
8 was seen in the hotel room. He was back and forth on whether
9 or not he was seen in the vicinity of the hotel room, and then
10 they magically say, well, one of these guys with a mask at the
11 golf course is my client.

12 So, I think there are massive gaps between what
13 the Government is telling the Court the testimony was and what
14 the actual testimony of the Detective was. I understand what
15 they would like it to be, but that's not what we're here for.

16 THE COURT: Okay. Let's do this.

17 Let's - give me five minutes. I want to sort of
18 collect my thoughts. And I apologize - I know we've gone
19 late, and we've got a criminal docket coming up, but I
20 obviously understand its importance to both the Government and
21 the Defendant, so.

22 You can stay seated. I'm going to sit up here
23 for a minute. I just want to look over some stuff, so we're
24 off the record for a couple of minutes.

25 (Pause in the proceedings at 2:28:13 p.m.)

1 (Proceedings resumed at 2:36:34 p.m.)

2 THE COURT: Okay. Please be seated.

3 Thank you all very much for the argument, for
4 the time. Once again I apologize for the delay, but I wanted
5 to make sure I give everyone a full and fair opportunity to
6 make their presentations, because obviously I understand the
7 significance, as I say, both to each individual Defendants,
8 all the families that are here, and, of course, the
9 Government.

10 As I always like to say upfront, you know, we're
11 here for one question today and one question only, and that
12 is, should these gentlemen - Mr. Butler, Mr. Mitchell,
13 Mr. Jenkins be held in custody pending the trial of this case.
14 I emphasize this every time I have a Detention Hearing to all
15 of the Defendants, gentlemen, you're innocent until proven
16 guilty. Nothing that goes on today affects that presumption
17 of innocence. The only question is, should you be held
18 pending the trial of this case. And I do not make this
19 decision likely.

20 I understand that, you know, the Bail Reform
21 Act, the federal law that governs this says that detention is
22 the exception rather than the rule; it should not be common
23 place in our society based on the law that simply because
24 you're charged with a crime you're held in custody.

25 At the same time, what the Bail Reform Act says

1 is, that if you're a risk of flight or a danger to the
2 community and there are no conditions that I can impose to
3 alleviate those threats that I'm required to detain you
4 pending the trial of this case, and I understand that.

5 Let me say in this case, first of all, the
6 Government, at least with respect to Mr. Butler and
7 Mr. Mitchell, is seeking detention on risk of flight and
8 danger to the community. And then, obviously, with respect to
9 Mr. Jenkins just based on a danger to the community.

10 I think the lawyers all know the standards. On
11 the risk of flight, the question is, can the Government show
12 by a preponderance of the evidence, just basically, more
13 likely than not, that Mr. Mitchell and Mr. Butler are risks of
14 flight. And there's no conditions I could impose to alleviate
15 that threat.

16 On the danger to the community, the burden is
17 higher on the Government's end. The Government has to show by
18 clear and convincing there's no conditions or combination of
19 conditions that I could impose to assure the safety of the -
20 of the community.

21 With respect to Mr. Jenkins, let me just say up
22 front, I do not think the Government has met its burden on
23 the - on the danger issue. I think the evidence is clear
24 that - you know, obviously, Mr. Jenkins is charged with a
25 serious crime, no doubt about it. But at the same time, there

1 was no weapon; he wasn't the driver, was not involved in the
2 planning.

3 To me, he has a stable employment. Obviously,
4 he has family members here, and he has no criminal history.
5 There's nothing that I look in the past. You're young, and -
6 I'll say this - you know, obviously, this happened in July.
7 We're now here involved - it's the beginning of September -
8 there's nothing that I have before me that, any case -
9 anything happened in that - that month in the interim which
10 gives me some confidence.

11 But at the end of the day, I think there are
12 conditions that I could impose to alleviate the risk to the
13 community. So, I'm going to allow you to be released here
14 today, Mr. Jenkins, but I'm going to impose some conditions on
15 you that you need to follow to make sure that you - you
16 follow. And if you -- I'm going to be very clear - if you
17 violate any of these conditions - and I'm going to have the
18 family members here, too - if you violate any of these
19 conditions, I am confident the Government will be back in here
20 asking that you be held in custody, and you should fully
21 expect that to happen at that time, if that happens.

22 Your lawyer doesn't want it. You don't want it.
23 I know your family doesn't want it. The Government doesn't
24 want it. I don't want it. No one here today wants it. Okay?
25 So, you got a great lawyer. You're going to have Pretrial

1 Services. If you have any questions about the conditions that
2 I'm going to impose, ask your lawyer, ask Pretrial Services
3 before. In other words, don't come later and say, oh, I
4 didn't realize; I did this; I didn't realize I could have or
5 couldn't do that.

6 I'm going to go over these conditions with you.
7 I know you have your family members here to listen very
8 closely to those conditions, to make sure you comply with the
9 conditions. I - and you're going to get a written copy of
10 this as well.

11 Okay. First of all, the conditions,
12 Mr. Jenkins, you need to follow - can't violate any federal,
13 state, local law; can't try to intimidate any witnesses or
14 obstruct an investigation.

15 You have to make all court appearances. And if
16 you are convicted, surrender at the appropriate time. I'm
17 going to have an unsecured bond, which means that in the event
18 you violate any of these conditions, you're going to be
19 required to pay \$50,000.

20 I'm going to have a third party custodian, which
21 is your mom, LaTarsha Misuria (phonetic), who I know is here
22 in the courtroom - and let me make sure I have on my street -
23 that is - is the address 14207 Pligh Street?

24 Okay. Let me write that down.

25 MR. VAZQUEZ: Yes, Judge; P-L-I-G-H.

1 (Pause in the proceedings.)

2 THE COURT: And Ms. Misuria (phonetic), let me say -
3 I know we talked about you being - you are going to be the
4 third party custodian, which means you're going to be
5 responsible for making sure that your son attends court
6 appearances and he doesn't violate these conditions.

7 And you understand that if he does violate any
8 of these conditions that I'm going to go over, although you're
9 his mother, you have an obligation to inform the Court that he
10 has violated these conditions.

11 MS. MISURIA: Yes, Your Honor.

12 THE COURT: Okay.

13 And, obviously, I know you don't want him to
14 violate the conditions. You'll do everything to make sure
15 that he complies with these conditions.

16 So, here's the conditions.

17 First, I'm going to have you - in addition, I'm
18 going to have you report to Pretrial Services on a regular
19 basis. You're to maintain or actively seek fulltime
20 verifiable employment. I know we heard that you have a job
21 with - with your dad. Your -

22 If you have a passport, you have to surrender
23 that passport. You can obtain no further passport. Your
24 travel is going to be restricted to Harris County and the
25 bordering counties. That means that connect - basically,

1 touch Harris County. And I'll be very honest with you. I
2 couldn't name all those counties. Okay?

3 So, be careful. Make sure you talk to your 1
4 lawyer or make sure you know where you can and can't go, but
5 it's Harris County and the bordering counties.

6 All con- -- and avoid all contact with any
7 co-Defendants, any witnesses, any potential victim. No
8 excessive use of alcohol. Refrain from possessing a firearm,
9 destructive device or other dangerous weapon.

10 Obviously, no use of narcotic drug or possess a
11 narcotic drug, unless it's prescribed by a - by a doctor, and
12 you need to - if you have - if you're on a - you need to
13 report any contact you have with law enforcement to Pretrial
14 Services.

15 As I always say, if you're in a car and you get
16 pulled over by the police, call Pretrial Services. Don't let
17 Pretrial Services find out from law enforcement. Okay?

18 You understand those conditions as I've gone
19 over them, sir?

20 DEFENDANT JENKINS: Yes, sir.

21 THE COURT: Okay.

22 Anything I missed from Pretrial?

23 PRETRIAL SERVICES OFFICER: No, Your Honor.

24 THE COURT: Okay.

25 So - and then, Ms. Misuria, thank you very much

1 for agreeing to serve as a third party custodian, and I said,
2 we all, obviously, want to make sure that your son follows
3 those conditions and that we're not back here before for a
4 violation of those conditions.

5 MS. MISURIA Thank you.

6 THE COURT: Okay.

7 Let me turn now to Mr. Mitchell.

8 Mr. Mitchell, let me just say upfront I do not
9 think there's a risk of flight. He's a life-long Houstonian.
10 Yes, he's being charged with crimes that are extremely
11 serious, as I understand more than one crime. I guess there's
12 another hearing set for tomorrow, but the fact that someone is
13 charged with crimes in my mind does not simply make them a
14 risk of flight, otherwise - that's not the law. And if it
15 was - well, it's not the law. Let me just say that.

16 The question is, is he a danger to the
17 community, and more importantly, has the Government shown by
18 clear and convincing evidence that there's no conditions or
19 combinations of conditions that I could impose to alleviate
20 that threat.

21 Look. It's serious charges. I know there's
22 sort of conflicts or confusion or a lack of clarity somewhat
23 on the weight of evidence. I'll be blunt. You know, I'm a
24 little torn when I read the - you know, he does have a
25 criminal history that causes some concern, but at the end of

1 the day, I don't think the Government has met its burden. And
2 by that I mean, I think there are conditions I could impose
3 here to alleviate the threat. It's not like I got a bunch of
4 situations in his past. He served his time, and it's not
5 where I have a bunch that he's, you know, just flaunted the
6 rules or parole and violated conditions, ignored conditions.

7 So, I'm going to impose conditions on you, sir,
8 Mr. Mitchell, to be released, but as I said, I'm going to
9 impose pretty strict conditions. And once again, you heard me
10 say it before but follow these conditions to a tee. If there
11 is one iota of violation, you should expect to be back here
12 before - I'll look you in the eye; you'll look me in the eye,
13 and I'll say - you know - I told you so. I don't want to do
14 it. I know your lawyer doesn't. No one wants that.

15 Understand sir?

16 DEFENDANT MITCHELL: Yes, sir.

17 THE COURT: Okay.

18 MR. PARADISO: Your Honor, the Government asks for a
19 stay so we can file an appeal.

20 THE COURT: That's - that's fine.

21 MR. ADLER: Judge, if I could - we're going to be
22 here tomorrow anyhow, so he's not going to be able to be
23 released today.

24 MR. PARADISO: We were still going to file a stay,
25 Your Honor. That's it.

1 THE COURT: Okay. Well, let me - let me go - I'm
2 going to walk through the conditions. Then, we'll - we'll -
3 we'll address that.

4 Okay. Mr. Mitchell, I'm going to go through
5 these conditions. You've heard some of them already, but it's
6 important for you to hear them from me.

7 Once again, you cannot any federal, state or
8 local law while on release, that you have to - you cannot
9 intimidate, attempt to intimidate a witness. You can't
10 obstruct a criminal investigation. Obviously, you have to
11 appear in court, surrender if you have a sentence imposed upon
12 you.

13 I'm going to impose a \$50,000 unsecured bond.
14 If you violate the condition, you could be responsible for
15 paying \$50,000.

16 You have to report to Pretrial Services. If you
17 have a passport, you have to give it up. You can't obtain
18 another passport. You're to avoid all contact with any co-
19 Defendant, any victim or potential witness.

20 No possession of firearm, no excessive use of
21 alcohol. You can't use, possess any narcotic drug. That
22 includes no CBD use.

23 I'm going to require that you have an ankle
24 monitor on. If you have any contact - I'm not sure why you
25 should given what I'm about to say - that you have to report

1 that to Pretrial Services, and I'm going to order home
2 incarceration. So, you are going to be restricted to your
3 residence at all times, except for medical needs and treatment
4 and court appearances - basically, you can't leave the house
5 unless if there's a medical emergency obviously. And if you
6 want to meet with your lawyer or you got a court appearance,
7 you need to get preclearance, that is, check ahead of time
8 with Pretrial Services.

9 So, don't just leave the house and say, oh, I
10 went to see Mr. Adler. That's not going to work. You've got
11 to talk to Pretrial Services ahead of time.

12 Do you understand that, sir?

13 DEFENDANT MITCHELL: Yes, sir.

14 THE COURT: Okay.

15 And then the one thing I'll throw out there -
16 and you mentioned this briefly, Mr. Adler - I'm not saying he
17 can't work or can't get a job. I guess we'll sort of revisit
18 that later on. In other words, if he - if he's interested in
19 applying for a job and gets some interviews, then let's come
20 back and we can talk about whether or not if he should or how
21 to structure that. But at least right now I think that these
22 conditions would be - would be appropriate.

23 Okay. Any questions for me?

24 DEFENDANT MITCHELL: No. Thank you.

25 THE COURT: Okay.

1 The Government has requested a stay - oh, okay.
2 I mean, how long do you want?

3 MR. PARADISO: Uh- --

4 THE COURT: I mean, nothing - right, he's going to be
5 here tomorrow. Nothing's happening tomorrow.

6 I don't know what's going to happen tomorrow. I
7 have no idea what the - I have no idea what's going to happen
8 at the Detention Hearing tomorrow.

9 MR. ADLER: I'm not trying to tell him what to do,
10 but it seems like tomorrow -

11 MR. PARADISO: Your Honor -

12 MR. ADLER: -- would be the better time to ask for
13 detention.

14 MR. PARADISO: Yeah, Your Honor, we're okay. As long
15 as he's staying in tonight for the hearing tomorrow.

16 THE COURT: Obviously - yeah, we have another case
17 tomorrow. I know there's three visits tomorrow, because I
18 don't know - I have no idea what's going to happen.

19 And let me be very clear, Mr. Mitchell. I'm
20 ordering you being released on these charges based on today's
21 hearing. I understand there's another hearing tomorrow. I
22 have no idea what's going to happen to that hearing. I have
23 no idea what the evidence is going to be. I'm not going to
24 prejudge it in your favor or against you. So, we'll just wait
25 and see what happens tomorrow, but obviously the Government

1 has indicated, which fully they're right of their desire to
2 appeal my decision, which they are obviously free - that's why
3 we have a great system. Everyone can appeal to the higher
4 court. So -

5 Okay. So, now we turn - let me get my ducks in
6 a row - now we turn to Mr. Butler. And once again in terms of
7 the risk of flight, I don't think the Government met its
8 obligation on the risk of flight. I think the Pretrial Report
9 is clear that Mr. Butler was born in Houston, has been a life-
10 time resident here.

11 And I understand that - that's actually a pretty
12 good argument, but that - you know - given some violations
13 previously, maybe some non appearances, that creates the risk,
14 but at the end of the day that - I want to focus on the danger
15 issue, because I think that's really where the rubber hits the
16 road.

17 And, obviously, you know, there's testimony that
18 there were some statements made about brandishing a firearm,
19 willingness to use the weapon as part of a robbery, that he
20 gave orders to people, that you were the ring leader -
21 obviously, that all weighs into the decision, but to me it's
22 looking at the criminal history. And once again, as I've said
23 over and over, it's not that someone has a criminal history.
24 Simply because you have a criminal history doesn't mean you
25 should be detained or held in custody on future incidents.

1 What concerns me has - what concerns I have here
2 is how many times, been on bond, have it revoked for various
3 things, whether it's failure to meet conditions, whether it's
4 a new law violation, failure to submit to a drug test, failure
5 to pay fees and court costs, failure to complete education
6 evaluation and program, failing to comply with curfew
7 requirements, failure to report to Pretrial Services, failure
8 to obtain and install GPS device - sort of a laundry list,
9 repeatedly. It's not just as if it's one time. It's over and
10 over.

11 And I understand - and, you know, Mr. Vinas --
12 you got a very good lawyer; Mr. Vinas has made a very
13 persuasive argument that, hey, when that has happened at the
14 state level, then it's been put basically - bond has been put
15 back into effect. But that - you know, I don't know what's
16 happened on the reasoning of those judges. To me, it's just
17 incredibly concerning that given your alleged involvement and
18 given the strength of the evidence in this case, that we have
19 these repeated violations, which really causes me great
20 concern, and I have no confidence at the end of the stay that
21 you would comply with any obligations that I impose here
22 today.

23 So, I do believe the Government has met its
24 obligation to show by clear and convincing evidence that you
25 are a danger, and more importantly, that there's no conditions

1 or a combination of conditions that I could impose to
2 alleviate that.

3 As I say, I do not do this lightly. I have
4 thought long and hard about it, and it is the exception rather
5 than the rule when I order detention. But I do think in this
6 case detention is appropriate.

7 So, sir, I'm going to order that you be remanded
8 into the custody of the United States Marshals pending the
9 trial of this case.

10 So, with that said, is there anything else that
11 we need to address.

12 MR. ADLER: I have one request, Judge.

13 THE COURT: Yes, sir.

14 MR. ADLER: If the Government could get me this -
15 it's an unusual circumstance that I'm here today, and I'm
16 going to be here tomorrow on another case - same Defendants,
17 same Prosecutors - if the Government could e-mail me the
18 proffer tonight it might save us some time tomorrow.

19 MR. PARADISO: For tomorrow?

20 MR. ADLER: Yeah, if possible.

21 MR. PARADISO: And I apologize to the Court. I'm new
22 here, and I didn't know.

23 THE COURT: Absolutely. I would appreciate that.

24 MR. PARADISO: No, I'll talk to co-counsel.

25 THE COURT: And in fact, send it to all counsel.

1 MR. PARADISO: Okay.

2 THE COURT: Just for convenience. That makes - that
3 makes it easier.

4 MR. PARADISO: For tomorrow, Your Honor?

5 THE COURT: Yeah, for - for tomorrow.

6 Okay. Anything else from the Government?

7 MR. PARADISO: No. No, Your Honor.

8 THE COURT: Okay.

9 On behalf of the Defendants?

10 MR. ADLER: No, Your Honor.

11 THE COURT: Okay.

12 And just so we're clear, so, Mr. Gaither, we're
13 going to come back 1:30 on Wednesday, and where we will start
14 off is Detective Bock will be on the witness stand, and you'll
15 start cross examination and we'll then address your - your
16 client, Mr. Maxwell, at that time.

17 MR. GAITHER: That's fine.

18 Thank you, Judge.

19 THE COURT: Okay.

20 With that said, thank you all very much.

21 Have a good day. You're all excused.

22 MR. PARADISO: Thank you, Your Honor.

23 (Proceedings concluded at 2:53:19 p.m.)

24

25

1
2
3
4
5
6
7
8
9
10
11
12
13
14
15
16
17
18
19
20
21
22
23
24
25

IN THE UNITED STATES DISTRICT COURT
FOR THE SOUTHERN DISTRICT OF TEXAS
HOUSTON DIVISION

I, Linda Griffin, court approved transcriber, certify that
the foregoing is a correct transcript from the official
electronic sound recording of the proceedings in the above-
entitled matter.

/s/ Linda Griffin
Linda Griffin

September 21, 2023
Date